

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

SABLE NETWORKS, INC., ET AL * September 28, 2020
*
VS. * CIVIL ACTION NOS.
*
JUNIPER NETWORKS, INC. * W-20-CV-524
DELL TECHNOLOGIES, INC., ET AL W-20-CV-569

BEFORE THE HONORABLE ALAN D ALBRIGHT
TELEPHONIC DISCOVERY HEARING

APPEARANCES:

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1 (September 28, 2020, 1:30 p.m.)

2 MS. MILES: Telephonic discovery hearing in Civil Action
3 6:20-CV-524, styled Sable Networks, Incorporated and Sable IP,
4 LLC versus Juniper Networks, Incorporated and Case No.
5 6:20-CV-569, styled Sable Networks, Incorporated, Sable IP, LLC
6 versus Dell Technologies Incorporated, Dell Incorporated and
7 EMC Corporation.

8 THE COURT: If I could hear announcements from all
9 counsel, specifically who will be speaking, and a reminder to
10 everyone, when you talk on the record, please identify who you
11 are so we can get it down accurately. Starting with the
12 plaintiff, please.

13 MR. HIPSKIND: Thank you and good afternoon, Your Honor.
14 This is Daniel Hipkind on behalf of the plaintiffs, and I'm
15 joined on this call by my colleague Dorian Berger, and I will
16 probably be the primary speaker.

17 THE COURT: Very good. Thank you, sir.

18 MS. AMSTUTZ: Good afternoon, Judge Albright. This is
19 Paige Amstutz with Scott, Douglass & McConnico. I'm joined by
20 my colleague -- or with my colleague Stephen Burbank. We also
21 have our client representative Mr. Dave Saunders on the line,
22 along with our co-counsel Eugene Mar and Alex Reese from
23 Farella Braun & Martel, and depending on the topic at hand, you
24 will hear from Mr. Mar or Mr. Reese.

25 THE COURT: Very good. Thank you, and thank you to

1 everyone who's a client representative who took the time to be
2 on this call today. I appreciate that.

3 Who's up next?

4 MR. NEWTON: Your Honor, this is Mike Newton representing
5 the Dell defendants. With me are Brady Cox and Emily Welch of
6 Alston & Bird. Unfortunately we don't have Mr. Tom Brown today
7 of Dell because it is Yom Kippur.

8 THE COURT: Okay. Anyone else?

9 Okay. So when last we were together, we were trying to
10 figure out what to do with everyone's schedule. Why don't we
11 start -- Mr. Newton, I apologize. I've had several hearings
12 since then. If you'll get me back refocused on -- I remember
13 we were trying to coordinate Markmans and some other schedules.
14 If you'll bring me up to speed, I'll let everyone chime in
15 about what they think we ought to do.

16 MR. NEWTON: Sure. This is Mike Newton again.

17 So Cisco has a Markman scheduled for January 14th, and
18 what we were thinking about doing is trying to consolidate the
19 Juniper and Dell hearings perhaps for maybe April 2nd, and what
20 that would allow us to do, since we do have patents that
21 overlap between the Cisco, Dell and Juniper cases, is to brief
22 less than all the terms once we see what your tentative will be
23 on January 14th. So we had proposed a schedule to the other
24 side where we start the Markman exchange process in early
25 January and ultimately conclude with a Markman on April 2nd

1 which would involve Juniper and Dell at a single Markman
2 hearing.

3 THE COURT: And is Juniper okay with that?

4 MR. MAR: Your Honor, this is Eugene Mar for Juniper
5 Networks, and we are in agreement with Mr. Newton and the Dell
6 team about having a consolidated Markman hearing out in April
7 so we can have the benefits of Your Honor's ruling in the Cisco
8 Markman hearing from January, and so we are in accord with the
9 proposed dates that Mr. Newton has also suggested to plaintiffs
10 here.

11 THE COURT: And Mr. Hipskind?

12 MR. HIPSKIND: Yes, Your Honor. This is Dan Hipskind for
13 the plaintiff.

14 We are fine with Dell's proposal regarding Markman. I
15 think our concern is that they would use this -- or that the
16 defendants would use this modest movement in the Markman date
17 to gain an unfair advantage in unrelated areas if we move the
18 trial dates that are on schedule. Specifically, we're
19 concerned about four areas of prejudice if we move the trial
20 dates, and those would be --

21 THE COURT: Mr. Hipskind, help me out here. If we set
22 trials -- tell me -- I think that's right. I think that's when
23 I pulled the plug and said we needed to have Juniper's counsel
24 on. If you'll remind me when I scheduled the -- I assume I've
25 scheduled Cisco and Juniper already for trial?

1 MR. HIPSKIND: Yes, Your Honor.

2 THE COURT: Tell me those dates, please.

3 MR. HIPSKIND: I will have to look up the Cisco date, but
4 the Juniper trial date is February 28th, 2022, and the Cisco
5 case is sometime in January 2022.

6 THE COURT: Okay. Okay. That helps me, and that means --
7 so let me ask before I hear from Mr. Hipskind -- and I'll
8 certainly give him a chance. Do the Juniper people intend --
9 that's a terrible way of asking. Let me try again.

10 Mr. Mar, let me actually treat you like people. I
11 apologize for that. Mr. Mar, if the Markman were not -- if
12 Juniper were not until April 2nd, that would still give you
13 about ten months to get ready for trial. Mr. Mar or Mr. Reese
14 either one, how many patents are involved in the plaintiff's
15 case against Juniper?

16 MR. MAR: Your Honor, this is Eugene Mar.

17 The answer to your question, Your Honor, there are six
18 patents involved.

19 THE COURT: Okay. Now, the advantage will be -- well,
20 here's what I'm thinking about doing, which I ordinarily would
21 not do, but it seems to me it may make sense in this unique
22 case, and I think there's even maybe another case that is
23 coming along as well that the plaintiff has filed. Ordinarily
24 I stay discovery until the Markman for many reasons, but those
25 reasons may not apply to this case. So for those of you who

1 have not been in front of me, what's going to happen at the
2 Cisco Markman is at the -- number one, I'll be giving out
3 tentatives the day before the Markman and at the Markman I will
4 be confirming what the claim constructions are going to be.
5 Here's what I'm going to do in this case so that I can keep
6 everyone on track, at least Cisco and Juniper on track, and
7 then this will benefit Dell as well in terms of when I set
8 their trial date. I'm going to go ahead and open discovery for
9 everyone -- by everyone I mean Cisco and Dell and Juniper and
10 obviously the plaintiff, but I'm going to allow discovery to
11 commence in this one unique case all at the same time when
12 discovery gets exchanged between the plaintiff and Cisco. So
13 that will allow Juniper to be conducting discovery in advance.
14 That'll give Juniper in essence a year to be getting ready on
15 most of the claim terms. And also we'll have the Markman on
16 April 2nd and then we'll figure out where to go from there, but
17 I'll be able to hold the trial date I think if I do that for
18 Juniper. I'll allow discovery to take place.

19 So give me just a second to run through my dates here.
20 Let me add to that -- so let me add to that for Juniper, given
21 this is a very odd duck for me in the way I'm doing things, if
22 you -- if counsel for Juniper and plaintiff -- I would
23 recommend that you go ahead now that you know you've got these
24 kind of weird dates that are coming up, if you need help from
25 me figuring out how best to organize your discovery and expert

1 reports, obviously talk with each other and try and get this
2 worked out, but if for some reason you have problems, let me
3 know.

4 Also because of the unique situation we have here, if
5 Juniper and the plaintiff want to adjust in some ways when
6 their motions are filed to give themselves a little more time
7 and make them closer to trial than what's in the standard
8 schedule, I'll do that because at least some of what Juniper's
9 going to be doing will be delayed by about two months. That is
10 if they find the extra claim terms are necessary to be
11 identified and construed, but this will give Juniper and the
12 plaintiff a jump and they'll actually wind up having -- let me
13 double-check here. But they'll actually -- Juniper will
14 actually wind up having more than a year to do discovery and
15 get ready for trial.

16 So to recap, I'm going to set the Markman for Juniper and
17 Dell for April 2nd of this year. Discovery will be allowed to
18 open for Cisco and Juniper and Dell beginning immediately after
19 the Markman takes place in the Cisco case on January 14th, and
20 I'm going to maintain for now the trial date for Juniper of
21 February 28th, 2022.

22 So having said all that, Mr. Hipskind, is there anything
23 else you needed to add?

24 MR. HIPSKIND: No. As to the Juniper case, that all
25 sounds great for the plaintiffs. Nothing to add. The only

1 thing to add for the Dell case would be a request for a
2 March 2022 trial date.

3 THE COURT: I'm going to take up -- I'm just -- I don't
4 have a calendar here. March would -- probably sounds okay.
5 April sounds okay, but let's -- let's take that up when I
6 typically do. Well, let me ask the counsel -- Mr. Newton, is
7 there any reason for you to think you wouldn't be ready by
8 March of 2022, especially given the fact that your two trials
9 are already going to possibly have come and gone and you'll get
10 started discovery in February?

11 MR. NEWTON: Your Honor, this is Mike Newton.

12 March is fine. We'll be ready.

13 THE COURT: Okay. Mr. -- so everyone knows, I just don't
14 have my calendar here. No one that knows me -- and some people
15 on this call know me very well. No one would ever give me
16 control over a calendar. And so I'll have to go to people who
17 are much better at that than I am. And if we can set it in
18 March, Mr. Hipkind, we will. If we don't have something
19 available then, it'll be April, but it'll be in the March/April
20 time period.

21 If you -- if -- let me do this. Give me a second. I'll
22 go ahead -- if you all will just be kind enough to give me a
23 second, I'll e-mail my clerks and see if we can get a March
24 date. Just a second.

25 Gentlemen and ladies, I think we can accommodate March.

1 My law clerk Hannah will get back to you today I think sometime
2 and give you the date in March of 2022. I think I was told
3 that counsel for Juniper might have an issue they wanted to
4 raise as well before we parted. So Mr. Mar or Mr. Reese?

5 MR. REESE: Yes, Your Honor. Thank you very much.

6 Go ahead, Eugene.

7 MR. MAR: Your Honor, this is Eugene Mar. Just one
8 administrative thing. We do have a discovery issue, and Mr.
9 Reese will be raising that with you shortly.

10 On the scheduling order, as -- we need a new deadline I
11 guess by which the parties could submit a new scheduling order
12 to the Court. I was hoping we could have at least a week.
13 Given some of the dates articulated today, I think there might
14 be some compression on the back end of the schedule that we'll
15 have to work out with the plaintiffs. I'm particularly
16 concerned about summary judgment and some of the pretrial
17 conference events overlapping on a very short schedule for the
18 Court. So if the Court perhaps could give us a week to work
19 out with the plaintiffs a new proposed scheduling order to
20 submit to you, Your Honor, that might be good.

21 THE COURT: Well, I think I'm generally perceived as a
22 very unreasonable person, but maybe I can overcome that in just
23 this one case by saying I really -- I won't be sitting here
24 waiting for it. If you all need a reason, that's great. I
25 could pretend that I am, but I won't be. And so -- and let

1 me -- but I tried to signal this earlier. I understand that
2 this is kind of a cattywampus deal that I'm doing here. And
3 so -- and I don't want to unfairly take away from Juniper or
4 the plaintiff, but typically the defendant is the one who files
5 more summary judgment motions and stuff. So I definitely want
6 Mr. Hipskind to be listening and understand that I'm certainly
7 okay if you all make certain you have adequate -- and it's
8 probably for the plaintiff's benefit too. I want to make sure
9 you all still have an adequate amount of time to do your
10 discovery, to get your expert reports done, take the
11 depositions of your experts and get all that done despite the
12 schedule I'm giving you. I mean, it's not terribly onerous.
13 It's not the Eastern District of Virginia, but I understand
14 it's slightly compressed and I'm happy to have you eat up some
15 of what would ordinarily be the Court's time. I will tell you
16 realistically though I need to have the final reply of whatever
17 you're filing, Markman -- Markman. Gosh -- summary judgment or
18 Daubert to me at least probably a month before the trial if you
19 guys really want me to have an adequate amount of time to
20 review it. Less time than that. I worry that's too compressed
21 for me to finish reading everything and to get you all a
22 hearing and really -- and deal with it fairly. But I think if
23 I have a month at the end, I think that will probably be fine.
24 And so keep that in mind. Does that -- and whenever y'all work
25 this out, fine. If you can't work it out for some reason, just

1 let my folks know and we'll get on the phone with you.

2 I would suggest only this: I would try and figure out
3 this week whether or not you can work it out because next week
4 I start a trial and I'll be less available to resolve something
5 like this by phone on short order. So if you don't think
6 you'll be able to work it out, let me know by Friday and I'll
7 have another hearing like this by phone and I'll help you guys.
8 Otherwise, I just don't know starting next Monday for a week
9 when I'm going to have -- be able to break away and help you
10 guys out.

11 MR. MAR: Understood, Your Honor. Thank you.

12 THE COURT: And then I think you said you also might have
13 a discovery motion?

14 MR. REESE: Yes, Your Honor. Thank you. This is Alex
15 Reese on behalf of Juniper Networks.

16 So I thought, Your Honor, if I could just take a moment to
17 give you a little bit of chronology that a dispute relates to
18 the plaintiff'S amended preliminary infringement contentions
19 which they provided on September 17th. There's a little bit of
20 chronology that puts that in context and why there's a dispute
21 here. So if I could just take a step back.

22 As relevant to this case, Juniper makes routers and
23 firewall devices. Sable, the plaintiffs, filed their complaint
24 against Juniper on June 15th, 2020, and in the complaint the
25 plaintiff accused a line of Juniper routers called the MX line,

1 the MX series of routers of infringement. The complaint also
2 cites a large number of documents relating to the MX products
3 that cites probably about a dozen documents relating to the MX
4 series of products.

5 A couple months after that on August 14th we had a meet
6 and confer with plaintiff's counsel during which we informed
7 plaintiff's counsel that Juniper intended to file a motion for
8 disqualification, the Berger and Hipskind law firm which is
9 plaintiff's lead counsel in this case. And we explained on
10 that call the basis for the motion, and the basis was that two
11 attorneys at Berger and Hipskind previously represented Juniper
12 in patent infringement cases that we believe are substantially
13 related to this one. And part of the reason, we explained on
14 that call, part of the reason that we believe they're
15 substantially related is that those previous cases involved
16 some overlap in accused products. In other words, the products
17 accused of infringement and the cases where plaintiff's counsel
18 defended Juniper several years ago overlapped with the products
19 that were identified in plaintiff's complaint here. So we
20 informed them of that on August 14th during a meet and confer
21 phone call. And then a few weeks later on September 10th we
22 filed our motion to disqualify opposing counsel.

23 That same day Sable provided its original infringement
24 contentions, and even though the MX products, MX series of
25 Juniper products were accused in the complaint in the September

1 10th infringement contentions, the MX products had been
2 dropped, along with a couple other products lines that are
3 identified in the complaint but not in the September 10th
4 infringement contentions.

5 So then a week later after having reviewed our
6 disqualification motion, Sable amended infringement
7 contentions. The plaintiff sent proposed amended infringement
8 contentions. And in those amended infringement contentions the
9 plaintiff now re-accuses the MX line of routers. The same day
10 they filed their opposition to this disqualification motion,
11 and in that opposition the plaintiff admitted to having dropped
12 certain products that are identified in the complaint but not
13 in the infringement contentions for the purpose of avoiding
14 disqualification. In other words, they were worried that the
15 basis of Juniper's disqualification motion would be these
16 overlapping products and so they dropped their infringement
17 allegations against several lines of products in the hopes that
18 it would help them avoid disqualification of their lead
19 counsel.

20 So with that -- with that rather lengthy chronology of
21 already of a short case, of a young case I should say, we
22 believe that the amended infringement contentions are improper
23 because they don't comply with the Court's order governing
24 proceedings. They don't comply with the Footnote 4 which I
25 believe now might be Footnote 5 that requires diligence and

1 that any amendments be based on new information, information
2 that the party did not have before the original contentions
3 were served. And so we're asking the Court to strike the
4 amended infringement contentions. Specifically it's just one
5 chart, Exhibit E to the infringement contentions, that replaces
6 the entire line of products that were accused in the original
7 contentions served on September 10th and now accuses the MX
8 products in Exhibit E. So that's the -- that is the basis or
9 that is the chronology.

10 And the reason that we believe that the amended
11 infringement contentions don't comply with the Court's order
12 governing proceedings is, first, we don't believe that
13 plaintiffs can show diligence. It clearly knew about the MX
14 line of products since before filing the complaint because they
15 are accused in the complaint.

16 They also -- the plaintiff clearly reviewed a large amount
17 of literature relating to the MX products before filing the
18 complaint because it's quoted in the complaint, and they had
19 three months, more or less, before they served their original
20 infringement contentions, and in that time period they decided
21 to drop the allegations of the MX products. So we don't
22 believe they can show diligence. We also don't believe that
23 the amendment is based on new information. There's no dispute,
24 I believe, that the documents that plaintiffs rely on in their
25 amended infringement contentions were all publicly available

1 before they served their original contentions in some cases
2 several months or even information was publicly available even
3 years before the original contentions. So although Sable has
4 certified that it had not identified the information in the
5 amended contentions before serving them, we believe information
6 was available and perhaps it was in plaintiff's possession
7 before they filed the amended infringement contentions.

8 So we're asking the Court to strike the amended
9 contentions and to go back to the original contentions which
10 again accuse a different line of products, not the MX products,
11 because we believe the amended contentions are improper.

12 THE COURT: How are you prejudiced by the amendment?

13 MR. REESE: To be candid, Your Honor, we don't think it
14 causes much prejudice for Juniper. They filed these one week
15 after their original contentions. So we believe that the Court
16 should not allow these kind of tactics where they drop products
17 specifically to avoid disqualification and then throw them back
18 in once they read the basis of our disqualification motion. We
19 don't think that complies with the standard that the Court set
20 forth in its order governing proceedings.

21 THE COURT: Okay. Well, yeah. You know, I don't -- you
22 know, absent some prejudice to Juniper, which I don't see at
23 this early stage, I don't really think it's -- I don't even
24 know that I have the power -- I mean, in essence -- you're in
25 essence actually kind of asking me to sanction them for their

1 conduct, and I don't -- I don't think it rises to that level by
2 any means, and you can't show prejudice. So I don't know that
3 I really even have the power to give you the relief that you're
4 seeking in this situation if I can't make either finding. So
5 I'm not going to do that at this time. I'm not going to strike
6 the plaintiff's infringement contentions based on the scenario
7 as I understand it.

8 Is there anything else I can take up?

9 MR. REESE: Yes, Your Honor. If I could -- this is Alex
10 Reese again. If I could just ask if we could set -- some of
11 this is a bit difficult to describe orally. If we could set
12 forth the basis in a short, you know, no more than five page
13 submission to the Court, I think it might aid in setting forth
14 the full context, including the fact that much of the
15 information that they're -- that the plaintiffs are now relying
16 on was available long before the original contentions were
17 served. That's a little hard to describe.

18 THE COURT: Mr. Reese, I get that. I get that. It's
19 just -- you know, none of us are perfect. I'm not taking the
20 plaintiff's side here, but, you know -- you know, we're --
21 absent prejudice to you, if this were at the other end of
22 the -- let me make clear. If this were at the other end of the
23 case, we're about to go to trial, you know, you want to add --
24 they wanted to add something into an expert report that they've
25 had for six months or something where I can't -- I've got --

1 I'm trying to put all this on the record. You know, I have
2 several tools here. If you had said you had prejudice, then I
3 would have said, well, would having additional time to deal
4 with them adding those products fix that because we could fix
5 the prejudice. But when Juniper can't articulate -- and I
6 don't think -- I think you're correct. I think you did exactly
7 what you should. I would have been maybe a little disappointed
8 if you would have said that Juniper was prejudiced unfairly,
9 which is the standard, at this early stage. You know, the --
10 you know, I -- that's just not -- that's not my job, I don't
11 think, is to keep people -- and it's not going to be my job to
12 do that when you are -- not you in this case, but when a
13 defense counsel says, Judge, you know, we did our best to find
14 art and we didn't have it, or, we didn't appreciate we have the
15 art but we didn't appreciate it, or, we had a reason why we
16 didn't think it was the best thing to do to assert it at the
17 time, but now we do. And plus you have a situation here where,
18 you know, this isn't the last time I even allow infringement
19 contentions. I'm going to allow amendment of the infringement
20 contentions after the Markman and I'm going to allow amendment
21 of invalidity contentions after the Markman. I really have a
22 very strong belief that I ought to give the plaintiff every
23 opportunity to assert whatever claims they feel that they're
24 entitled to assert. I feel that defendants ought to have the
25 opportunity to assert every defense that they have to

1 infringement or validity unless it's -- there's unfair
2 prejudice to the other side by me allowing it to happen. I
3 was -- I was on both sides of these issues for a long time, and
4 so I -- I'm completely unbiased as to either side. I -- it's
5 just as likely three years ago I would have been sitting in
6 your seat, Mr. Reese, in this case as I would have been on the
7 plaintiff's side. Probably more likely I would have been
8 sitting on your side.

9 I understand why you raised this issue, but you don't need
10 to send me anything in writing. I think I've got a handle on
11 what happened and I'm not going to strike the plaintiff's
12 infringement contentions.

13 Is there anything else we need to take up?

14 MR. HIPSKIND: Your Honor, this is Daniel Hipkind for the
15 plaintiffs.

16 We have one other issue, if there's no other issues, that
17 we'd like to request before we leave, which would be regarding
18 this disqualification motion that Mr. Reese referenced. Their
19 final reply brief is due Wednesday and we were hoping to obtain
20 leave of the Court to file a short surreply by the next Monday
21 which would be October 5th, and then at that point the motion
22 would be fully briefed up and we would be ready for a hearing
23 on that at the Court's convenience.

24 THE COURT: Well, this is again going to kill my ambition
25 to be unreasonable as often as possible, but the truth is,

1 Mr. Hipskind, I'm -- like I said, I'm starting trial Monday.
2 So there's no imperative that you get this to us by Monday. If
3 you all will get it filed next week -- and by you all I mean
4 the plaintiff get it filed by next week, and then I do think
5 this is something the Court needs to address very quickly
6 though. So if you will get it filed next week and one of you
7 would be so kind as to check with my court clerk if I'm
8 available, and I should be the following week, I'd like to
9 take -- I'd like to set a hearing on this to be done by Zoom,
10 and -- unless you all wanted to do it in person in Waco which
11 would be fine as well. But we can do it by Zoom. I would be
12 happy to take this up not next week but the following week, and
13 you all can contact my clerk. I think it's Hannah on this
14 case, but I could be wrong. I think it's Hannah. If you'll
15 check with her, you know, and get a couple of hours, you know,
16 set aside, I will rule on this motion not next week but the
17 following week.

18 So, Mr. Hipskind, if you'll just get your surreply filed
19 by middle or late next week, that'll give me sufficient time to
20 review it. Does that take care of your concern?

21 MR. HIPSKIND: Yes, Your Honor. It does. Thank you.

22 THE COURT: Anything else?

23 MR. REESE: Your Honor, this is Alex Reese again for
24 Juniper.

25 If I could just be heard on that issue. Just as

1 background, we had requested from plaintiff's counsel when we
2 were -- when we were meet and conferring regarding the page
3 limitations that would govern Juniper's motion for
4 disqualification. We had proposed also additional pages for
5 our reply brief. Plaintiff's counsel said they would agree but
6 only if we agreed to a surreply. We refused and said we'll
7 live with the five pages on reply because we think that it's
8 our motion, so we should have the final word. If the Court is
9 inclined to allow a surreply, which it seems like the Court is
10 inclined to do, may we request ten pages for our reply brief
11 which is due this week? We would otherwise be limited to five
12 pages.

13 THE COURT: Let me -- I hope that we post this hearing
14 because you all have gotten to hear an awful lot about how I
15 see the world. I think I have a hearing later today where the
16 parties I think want to have 1,200 pages per side for their
17 motions, and that is a little more weighty. I think I can tell
18 everyone on this call that in my 900 -- what was it Joe Biden
19 said the other day, he'd been a senator for 180 years? In my
20 180 years of practicing law, I never denied anyone an extension
21 of page limits. In fact, I usually said, I hope you -- I hope
22 you file like 300 because I know how the Court will feel about
23 that. So let me just assure you going forward in this case I
24 think we have -- we try and keep our page limits with respect
25 to the Markman at what the page limit is at because if we

1 don't, whatever number we give you all, you'll take, and we
2 already have too much stuff to read. But in terms of the
3 exchange of motions, responses, replies, surreplies, I would
4 anticipate that everyone would agree without me needing to be
5 involved or any exchange of anything else. A small addition.
6 I find ten pages instead of five to be imminently reasonable,
7 and you're certainly welcome to have ten pages for your reply
8 and I think a surreply. I would -- I will always permit a
9 surreply in every important motion as well.

10 So, Mr. Reese, you have your ten pages.

11 Mr. Hipskind, you have your surreply, and we will take up
12 the motion to disqualify not next week but the following week.

13 Is there anything else we need to take up?

14 MR. HIPSKIND: Nothing on behalf of the plaintiffs, Your
15 Honor.

16 THE COURT: Mr. Reese or Mr. Mar?

17 MR. MAR: Nothing else on behalf of Juniper.

18 THE COURT: And, Mr. Newton, you've gotten to be awfully
19 quiet throughout this entire process, which is always the best
20 place to be I think whenever you're in front of a judge.

21 So you all have a great week. Be safe out there. And
22 like I said to all of you all, if you have any issues with --
23 in terms of resolving the scheduling order, just let me know as
24 soon as you anticipate having those issues. I'll get involved.
25 We'll get them resolved, but I want them resolved -- I want the

1 scheduling order issues resolved in September or very early
2 October. I don't -- but, you know, I don't want you all
3 feeling like you can't get started because of any delay with
4 respect to that. I will be happy to be involved and resolve
5 things for you if you have any issues.

6 Have a good day. Take care.

7 (Hearing adjourned at 2:06 p.m.)
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1 UNITED STATES DISTRICT COURT)
2 WESTERN DISTRICT OF TEXAS)
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4 I, Kristie M. Davis, Official Court Reporter for the
5 United States District Court, Western District of Texas, do
6 certify that the foregoing is a correct transcript from the
7 record of proceedings in the above-entitled matter.

8 I certify that the transcript fees and format comply with
9 those prescribed by the Court and Judicial Conference of the
10 United States.

11 Certified to by me this 11th day of October 2020.

12
13 /s/ Kristie M. Davis
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